

1 EDMUND G. BROWN JR.
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 MICHELLE MCCARRON
Deputy Attorney General
4 State Bar No. 237031
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2535
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2011-124**

13 **TENAYA ISADORA AKINS-GRAHAM**
14 **44556 Camolin Lane**
15 **Lancaster, CA 93534**
16 **Registered Nurse License No. 605307**

A C C U S A T I O N

Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., R.N. (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing.

21 2. On or about August 27, 2002, the Board of Registered Nursing issued Registered
22 Nurse License Number 605307 to Tenaya Isadora Akins-Graham (Respondent). The Registered
23 Nurse License was in full force and effect at all times relevant to the charges brought herein and
24 will expire on July 31, 2012, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing (Board), under the
27 authority of the following laws. All section references are to the Business and Professions Code
28 unless otherwise indicated.

4. Section 2750 of the Code provides in part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides in part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 490 of the Code provides in part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

7. Section 493 of the Code states:

“Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.”

8. Section 2761 of the Code states in part:

“The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

“(a) Unprofessional conduct, which includes, but is not limited to, the following:

• • • •

“(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

• • • •

1 “(f) Conviction of a felony or of any offense substantially related to the qualifications,
2 functions, and duties of a registered nurse, in which event the record of the conviction shall be
3 conclusive evidence thereof.”

4 9. Section 2762 of the Code states in part:

5 “In addition to other acts constituting unprofessional conduct within the meaning of this
6 chapter, it is unprofessional conduct for a person licensed under this chapter to do any of the
7 following:

8 “(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
9 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
10 administer to another, any controlled substance as defined in Division 10 (commencing with
11 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
12 defined in Section 4022.”

13 REGULATORY PROVISIONS

14 10. California Code of Regulations, title 16, section 1444, states in part:

15 “A conviction or act shall be considered to be substantially related to the qualifications,
16 functions or duties of a registered nurse if to a substantial degree it evidences the present or
17 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
18 safety, or welfare.”

19 Controlled Substance / Dangerous Drug

20 11. Hydrocodone, otherwise known as Vicodin, is a controlled substance pursuant to
21 Health and Safety Code section 11055 subdivision (b)(1)(j), and a dangerous drug pursuant to
22 Code section 4022.

23 COST RECOVERY

24 12. Section 125.3 of the Code provides in part, that the Board may request the
25 administrative law judge to direct a licentiate found to have committed a violation or violations of
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Criminal Conviction)

3 13. Respondent is subject to disciplinary action under Code sections 490 and 2761
4 subdivision (f), in conjunction with California Code of Regulations section 1444, on the grounds
5 of unprofessional conduct, in that Respondent was convicted of a crime substantially related to
6 the qualifications, functions and duties of a registered nurse.

7 14. On or about December 8, 2009, in a proceeding entitled *People of the State of*
8 *California v. Tenaya Isadora Akins*, Superior Court of California (Los Angeles County), Case
9 No. 9SY05502, Respondent was convicted of violating Torrance Municipal Code section 49.2.1
10 for being in a park while it was closed. Respondent was placed on two years summary probation,
11 ordered to pay a fine of \$750.00, and ordered to stay out of Columbus Park. The circumstances
12 leading to Respondent's conviction are as follows:

13 a. Respondent is a nurse with the California Department of Corrections and is employed
14 at Lancaster State Prison in Lancaster, California. Respondent was at Columbus Park after hours
15 with M.G., whom she met while he was incarcerated at the Lancaster Prison.

16 b. On or about January 17, 2009, Officer's approached Respondent's car and observed
17 Respondent and M.G. in her car having what appeared to be intercourse. Officer's ordered
18 Respondent and M.G. to put their pants on and exit the vehicle. Respondent admitted to having
19 intercourse in her car with M.G.

20 c. Officer's proceeded to search Respondent's vehicle, because M.G. was on parole.
21 During the search, Officer's found an unmarked bottle containing 20 white pills and 15 blue pills.
22 Respondent told Officers the pills were hers, and that she had a prescription for them, but did not
23 have the prescription with her. Respondent told Officers the pills were Vicodin and Xanax.

24 d. Officers were dispatched to another call, so Respondent and M.G. were not taken into
25 custody at that time. A bench warrant was issued for Respondent's arrest. Respondent was
26 charged with violations of Penal Code sections 289.6(A)(3) [a CDC employee engaging in sexual
27 activity with a parolee]; and 647(a) [lewd conduct in a public place]; a violation of Torrance
28 Municipal Code section 49.2.1 for remaining in a park between the hours of 10 pm and 6 am; and

1 a violation of Code section 4060 for unlawful possession of a controlled substance. On or about
2 May 8, 2009, Respondent turned herself in to the Torrance Police Department.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unlawful Possession of Controlled Substance)**

5 15. Respondent is subject to disciplinary action under sections 2761 subdivision (a)(1),
6 and 2762 subdivision (a), on the grounds of unprofessional conduct, in that, Respondent
7 possessed in violation of law and without a valid prescription, Xanax and Vicodin. Vicodin is a
8 controlled substance and dangerous drug. Complainant's allegations, as set forth in paragraph 14
9 subparagraph (c), are incorporated by reference as though fully set forth.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Violation of Nursing Practice Act)**

12 16. Respondent is subject to disciplinary action under section 2761, subdivision (d), in
13 that Respondent violated provisions of the Nursing Practice Act, in connection with her actions
14 that lead to her arrest and conviction. Complainant's allegations as set forth in paragraphs 13 and
15 paragraph 14, subparagraphs (a) through (d) and paragraph 15, inclusive, are incorporated by
16 reference, as though fully set forth.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct)**

19 17. Respondent is subject to disciplinary action under section 2761, subdivision (a), on
20 the grounds of unprofessional conduct, in that Respondent engaged in conduct that lead to her
21 arrest and conviction. Complainant's allegations as set forth in paragraphs 13 and paragraph 14,
22 subparagraphs (a) through (d), and paragraph 15, inclusive, are incorporated by reference, as
23 though fully set forth.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 605307, issued to Tenaya Isadora Akins-Graham;
2. Ordering Tenaya Isadora Akins-Graham to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 8/16/10

for *Stacie Bern*
LOUISE R. BAILEY, M.ED., R.N.
Interim Executive Officer
Board of Registered Nursing
State of California
Complainant

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